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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

RICKY EXE, and DUSTIN CLARK,

Plaintiffs,

v.

KEVIN J. BOWSER, and MONTE J.
MCBETH,

Defendants.

Case No. 6:22-cv-00451-YY

DEFENDANT MCBETH'S ANSWER AND
AFFIRMATIVE DEFENSES

DEMAND FOR JURY TRIAL

Defendant Monte J. McBeth (“Defendant McBeth”), by and through legal counsel, Dylan Hallman, Assistant Attorney General, hereby answers Plaintiffs’ Amended Complaint and admits, denies, and alleges as follows:

1.

In response to paragraph 1, Defendant McBeth admits that Plaintiff Ricky Exe (“Plaintiff Exe”) is an adult-in-custody (AIC) at Oregon State Correctional Institution (OSCI). Defendant McBeth lacks sufficient knowledge or information sufficient to form a belief about the truth of the remaining allegations in paragraph 1 and, therefore, denies the same.

2.

Defendant McBeth lacks sufficient knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 2 and, therefore, denies the same.

3.

In response to paragraph 3, Defendant McBeth admits that Plaintiff Dustin Clark (“Plaintiff Clark”) is an AIC at OSCI. Defendant McBeth lacks sufficient knowledge or information sufficient to form a belief about the truth of the remaining allegations in paragraph 3 and, therefore, denies the same.

4.

Defendant McBeth denies paragraph 4.

5.

In response to paragraph 5, Defendant McBeth denies that he violated Plaintiff Clark’s federal constitutional rights and that he retaliated against Plaintiff Clark for engaging in protected speech. Defendant McBeth lacks sufficient knowledge or information sufficient to form a belief about the truth of the remaining allegations in paragraph 5 and, therefore, denies the same.

6.

Defendant McBeth admits paragraphs 6, 7, 8, 9, and 10.

7.

Defendant McBeth denies paragraph 11.

8.

Defendant McBeth lacks sufficient knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 12 and, therefore, denies the same.

9.

In response to paragraph 13, Defendant McBeth denies that an AIC labeled as a “dropout” is necessarily exposed to violence at the hands of certain groups. Defendant McBeth

lacks sufficient knowledge or information sufficient to form a belief about the truth of the remaining allegations in paragraph 13 and, therefore, denies the same.

10.

In response to paragraph 14, Defendant McBeth admits that Plaintiff Exe was housed on unit 4. Defendant McBeth lacks sufficient knowledge or information sufficient to form a belief about the truth of the remaining allegations in paragraph 14 and, therefore, denies the same.

11.

Defendant McBeth lacks sufficient knowledge or information sufficient to form a belief about the truth of the allegations in paragraphs 15, 16, 17, 18, and 19, and, therefore, denies the same.

12.

In response to paragraph 20, Defendant McBeth incorporates his responses to the referenced paragraphs as if fully set forth herein.

13.

Defendant McBeth lacks sufficient knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 21 and, therefore, denies the same.

14.

Defendant McBeth denies paragraph 22.

15.

Defendant McBeth lacks sufficient knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 23 and, therefore, denies the same.

16.

Defendant McBeth denies paragraphs 24 and 25.

17.

Except as expressly admitted or otherwise answered, Defendant McBeth denies each and every allegation in Plaintiffs' Amended Complaint and the whole thereof.

18.

Defendant McBeth demands a jury trial.

FIRST AFFIRMATIVE DEFENSE

(Prison Litigation Reform Act)

19.

Defendant McBeth asserts all provisions of the Prison Litigation Reform Act, including the provision requiring exhaustion of administrative remedies, to Plaintiffs' claims.

SECOND AFFIRMATIVE DEFENSE

(Qualified Immunity)

20.

Defendant McBeth acted in good faith and within his discretion pursuant to the constitutions, laws, and statutes of Oregon and the United States, and his conduct did not violate any clearly established statutory or constitutional rights of which a reasonable official would have knowledge.

THIRD AFFIRMATIVE DEFENSE

(Eleventh Amendment Immunity)

21.

Plaintiffs' claims are barred to the extent plaintiffs sue Defendant McBeth in his official capacity for money damages, and to the extent plaintiffs seek non-monetary relief such as declaratory or injunctive relief (or "changing prison policy") against Defendant McBeth who does not create prison policies and without properly naming defendant(s) responsible for prison policies.

FOURTH AFFIRMATIVE DEFENSE

(Discretionary Immunity)

22.

Defendant McBeth, who is an employee of a public body, acted within the scope of his

employment at all times material to Plaintiffs' Amended Complaint and, therefore, he is immune from any claim based upon the performance or the failure to exercise or perform a discretionary function or duty.

FIFTH AFFIRMATIVE DEFENSE

(Damages Limitation)

23.

Plaintiffs cannot recover punitive or non-monetary damages, and not against this defendant.

24.

Defendant McBeth reserves the right to assert additional defenses as may become known to him through investigation and discovery.

WHEREFORE, having fully answered Plaintiffs' Amended Complaint, Defendant McBeth prays for a judgment in his favor against plaintiffs, dismissal of Plaintiffs' claims against him, an award of his costs and disbursements incurred herein, and for such other and further relief as this Court may deem appropriate.

DATED June 17, 2022.

Respectfully submitted,

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